



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0368; FRL-9930-76-Region 4]

Approval and Promulgation of Implementation Plans; North Carolina;

Nitrogen Dioxide and Sulfur Dioxide National Ambient Air Quality Standards Changes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve the State Implementation Plan (SIP) revision submitted by the State of North Carolina, through the North Carolina Department of Environment and Natural Resources on August 13, 2012, pertaining to definition changes for the Nitrogen Dioxide (NO₂) and Sulfur Dioxide (SO₂) National Ambient Air Quality Standards (NAAQS). EPA is approving this SIP revision because the State has demonstrated that it is consistent with the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective on **[Insert date 60 days after date of publication in the Federal Register]** without further notice, unless EPA receives relevant adverse comment by **[Insert date 30 days after date of publication in the Federal Register]**. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2015-0368, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: R4-ARMS@epa.gov.
3. Fax: 404-562-9019.
4. Mail: “EPA-R04-OAR-2015-0368” Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. “EPA-R04-OAR-2015-0368”. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business

Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at

all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Zuri Farnvalo, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9152. Mr. Farnvalo can be reached via electronic mail at farnvalo.zuri@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 108 and 109 of the CAA govern the establishment, review, and revision, as appropriate, of the NAAQS to protect public health and welfare. The CAA requires periodic review of the air quality criteria — the science upon which the standards are based — and the standards themselves. EPA's regulatory provisions that govern the NAAQS are found at 40 CFR 50 – *National Primary and Secondary Ambient Air Quality Standards*. In this rulemaking, EPA is proposing to approve North Carolina's August 13, 2012, submission amending the State's NAAQS for NO₂ and SO₂ that are found at 15A NCAC 02D .0407 and .0402. The SIP submittal amending North Carolina's rules to incorporate the NAAQS can be found in the Docket for this proposed rulemaking at www.regulations.gov and are summarized below.

II. EPA's Analysis of North Carolina's SIP Revision

A. NO₂

On February 9, 2010, EPA promulgated a new 1-hour primary NAAQS for NO₂ at a level of 100 parts per billion (ppb), based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. *See* 75 FR 6474. Accordingly, in the August 3, 2012, SIP submission, North Carolina revised state rule 15A NCAC 02D .0407 *Nitrogen Dioxide* to update the primary air quality standard for NO₂ to be consistent with the NAAQS that were promulgated by EPA in 2010. EPA has reviewed this change to North Carolina's rule for NO₂ and has made the determination that this change is consistent with federal regulations.

B. SO₂

On June 22, 2010, EPA promulgated a revised primary SO₂ NAAQS to an hourly standard of 75 ppb based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. *See* 75 FR 35520. Accordingly, in the August 3, 2012, SIP submission, North Carolina revised state rule 15A NCAC 02D .0402 *Sulfur Oxides* to update the primary air quality standard for SO₂ to be consistent with the SO₂ NAAQS that were promulgated by EPA in 2010. EPA has reviewed the change to North Carolina's rule for SO₂ and has made the determination that these changes are consistent with federal regulations.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporate by reference of NCDENR regulations 15A NCAC 02D .0407 *Nitrogen Dioxide* and 15A NCAC 02D .0402 *Sulfur Oxides* effective September 1, 2011, which were revised to be consistent with the current NAAQS. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

IV. Final Action

EPA is approving the aforementioned changes to the North Carolina SIP, because they are consistent with EPA's standards for NO₂ and SO₂. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective **[Insert date 60 days after the date of publication in the Federal Register]** without further notice unless the Agency receives adverse comments by **[Insert date 30 days after the date of publication in the Federal Register]**.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All adverse comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on **[Insert**

date 60 days after the date of publication in the Federal Register] and no further action will be taken on the proposed rule.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the Agency may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the

rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: insert date 60 days after date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by Reference, Intergovernmental relations, Nitrogen dioxide, Sulfur Dioxide, Reporting and recordkeeping requirements.

Dated: July 6, 2015.

Heather McTeer Toney,
Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart II – North Carolina

2. Section 52.1770(c) is amended under Table 1, at Subchapter 2D Air Pollution Control Requirements, Section .0400 Ambient Air Quality Standards by revising the entries for “.0402,” and “.0407” to read as follows:

§52.1770 Identification of plan.

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(c)* * *

Table 1 - EPA Approved North Carolina Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
Subchapter 2D Air Pollution Control Requirements				
**	**	*	*	*
Section .0400 Ambient Air Quality Standards				
**	**	*	*	*
Sect .0402	Sulfur Dioxide	9/1/2011	[Insert date of publication in Federal Register] [Insert citation of publication]	
**	**	*	*	*
Sect .0407	Nitrogen Dioxide	9/1/2011	[Insert date of publication in Federal Register] [Insert citation	

			of publication]	
**	**	*	*	*
*	*	*	*	*

[FR Doc. 2015-17683 Filed: 7/17/2015 08:45 am; Publication Date: 7/20/2015]